

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matters of)	
)	
New Part 4 of the Commission's Rules)	
Concerning Disruptions to Communications)	ET Docket No. 04-35
)	

REPLY COMMENTS OF eCOMMERCE & TELECOMMUNICATIONS USER GROUP

The eCommerce & Telecommunications User Group ("eTUG"), by its attorney, hereby submits its reply comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM") in the above-referenced proceeding.¹

eTUG represents the interests of commercial, educational, and governmental end users of electronic commerce, information technologies ("IT"), Internet, and telecommunications products and services. eTUG desires to facilitate, protect, and promote the mutual interests of end users with respect to public policy deliberations in order to achieve quality, cost-effective information and telecommunications systems.

eTUG commends the Commission for the leadership it is demonstrating in this proceeding by proposing to modify and strengthen its rules regarding outage-reporting and to extend those revisions to non-wireline communication providers.

¹ *NPRM*, ET Docket No. 04-35, Rel. Feb. 23, 2004.

I. Background – The End User Perspective

American businesses and institutions are heavily dependent on electronic commerce, IT, Internet, and telecommunications in their daily activities. In order to operate or compete successfully locally, nationally, and globally, end users must be able to obtain, operate, maintain, and fully utilize state-of-the-art technology. This end user dependency has far greater and broader implications in terms of American jobs, profits, competitive advantage, and balance of trade than the cost of these services that end users purchase.

While everyone understands the importance of providing the necessary information for our homeland security needs, the Commission's NPRM clearly recognizes that its proceeding, as well as responsibilities, is far broader and includes the well-being of the American economy.² It is this broad perspective that eTUG is particularly focused on.

II. Public Availability of Existing Reporting

The Commission mentions in paragraph 6 that it “first required wireline common carriers to provide service disruption reports after massive telephone outages occurred simultaneously on the East and West coasts in 1991” and references in footnote 14 that legislation was introduced to “require the FCC to enforce network reliability and quality standards on telephone common carriers.” End user representatives remember those events well and will be forever appreciative of the national leadership demonstrated by the House of Representatives then Subcommittee on Telecommunications and Finance of

² See *NPRM* at paragraphs 1 & 3.

the Committee on Energy and Commerce in ensuring that the Commission fully understood the national importance of enforcing network reliability and quality standards on telecommunications service providers. During the months leading up to those events, end users worked closely with the Subcommittee leadership to ensure that impact of network reliability and quality issues on this country's economic engines was fully understood.

Some of those submitting initial comments in this proceeding have either failed to understand the Commission's broad responsibilities that have driven its outage-reporting rules or have chosen to avoid mentioning it. Outage reporting is not merely a partnership process between carrier/suppliers and government, it has from its very beginnings included the participation of this nation's telecommunications customers, in particular end users because of the significant impact of these issues on this nation's economic engines. Public access to Commission outage reports should continue.

III. Non-wireline Reporting

eTUG totally agrees with the Commission that it is critically important that outage reporting be expanded to cover all relevant service providers. Our nation's network technologies have expanded significantly since the 1991, and the Commission correctly recognizes that its rules must be updated to cover these expanded technologies. The Commission also recognizes that many of the technologies are interconnected. Almost 95% of all of this nation's cell towers are dependent upon ILEC special access services in order to be interconnected to cellular network systems. Satellite earth stations are also typically dependent upon the same ILEC services. By expanding outage reporting to all

of these additional technologies, government policymakers, as well as end users, will be able to make more informed decisions regarding both this nation's security as well as the broader implications to this nation's economy.

IV. Mandatory Reporting

eTUG followed the voluntary reporting efforts of NRIC VI with close interest. It became very clear to end users and any other objective analyzer of the NRIC VI Voluntary Trial that it was a major failure. Not only was the data collected largely meaningless, but the level and breadth of the participation was extremely poor. eTUG was so concerned about the total failure of the voluntary reporting that it sought permission at the last meeting of NRIC VI to have its written concerns made a part of the official report of NRIC VI. [See attachment A.] Based on its analysis of previous voluntary reporting efforts, it is quite clear to eTUG that only a mandatory outage reporting system will be able to produce meaningful data and broad participation. To think otherwise is wishful thinking and not conducive to a successful data collection effort over a long term.

V. Lower Outage Reporting Triggers

eTUG commends the staff comments of the Kansas Corporation Commission for raising the issue of lower outage reporting thresholds. While on the first page of their comments they mention that they "have no empirical data on which to base a calculated recommendation," they were polite enough to not mention that when this issue came before the first NRC, it didn't have any empirical data either. When the issue came

before NRC I, the overwhelming carrier component of the membership merely out voted the few representatives of legitimate ratepayer/end user interests. Voting might never made the initial thresholds right! The Commission would be well served to pursue the Kansas staff recommendation. Those truly concerned with homeland security matters would be provided with better and more reliable data that would facilitate better detection of smaller efforts. Also, small and medium sized end user businesses that participate in this nation's economy would be given greater attention. While very large businesses may be able to recover from the consequences of outages, small businesses may be devastated and go under.

VI. Conclusion

eTUG commends the Commission for its leadership on these important matters. It should go forward with its proposals to update, expand, and continue to make mandatory its outage reporting rules. The Commission should also seriously consider the Kansas recommendation to lower the reporting thresholds.

Respectfully submitted,

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ATTACHMENT A

Business End User Input to NRIC VI Final Report

(by Brian R. Moir on behalf of eTUG)

Since the beginning of the first NRIC, a stated objective has always been evaluation, and reporting on, the reliability of America's networks. Data collection is critical to NRIC's ability to make those evaluations, and its data collection efforts must be judged by the quality of the data that they generate and by the strength of the data analyses that result. Overall, the data coming from the voluntary trial was quite poor, and as a result, the analyses are unable to provide any real conclusions about the reliability of communication networks. Consequently, the NRIC VI Voluntary Trial must be judged a failure as a data collection effort whose objective is to facilitate meaningful evaluation of the reliability of the network facilities of the industries covered by the Voluntary Trial.

Basically, the Voluntary Trial was doomed to failure from the beginning. To ensure success, decisions needed to be made at the outset regarding the data to be collected in order to ensure that the data could be used to meaningfully describe the reliability of America's communication networks. It is unclear whether NRIC ever developed a set of questions regarding what data was necessary to ensure that the data collection effort would provide the relevant information necessary for a meaningful evaluation of those networks' reliability. The NRIC report provides no conclusions about network reliability of the industries covered by the Voluntary Trial based on the data collected.

Some of the most obvious problems with the Voluntary Trial are a listed below:

- **Compliance was disappointing during the trial.** During no month did all of the mere 27 companies in a report indicating either an outage or a positive report which would state that no outages occurred. This is extremely disappointing since the amount of effort to fill out a positive report is minimal. In many months, a large percentage of companies did not comply.
- **It is impossible to determine whether individual companies or individual industry segments complied with the process.** It is totally possible that a handful of companies contributed all the outage information. It is also possible that an industry segment could have provided no reports. Since company names and industry segments were scrubbed from the reports, NRIC VI has no idea whether all the reports came from a few companies (or one industry segment) or not. Consequently, the data made available for evaluation did not facilitate any meaningful evaluation of this country's network reliability.
- **Scrubbed outage reports have little information.** Of those reports submitted, many are worthless if the goal is to describe the outages and help determine ways to prevent future outages. NRIC VI decided that a "minimal" template should be used in the Voluntary Trial. That is, NRIC VI did not try to expand the information collected. Even with a minimal template, many of the reports have many fields left blank. One report has only twelve words (counting the numbers as words). There were several "optional" fields that are rarely filled out

adequately. Optional fields included the root cause of the outage, methods used to restore service, and applicable best practices. Making these fields optional guaranteed that the information would be sparse. Since NRIC was only dealing with voluntary reports, participating companies and industries may not have taken the reports as seriously as some may have hoped for. Obviously, if the data coming in is poor, even the best analyses can not make the data useful.

- **The time to scrub outage reports was incredibly long:** Two of the six outage reports from February have still not been scrubbed. Three of the seven outage reports from March have still not been scrubbed. NRIC should consider this a major process failure. It should not take 4 to 5 months to scrub outage reports. Not having timely data makes it impossible to perform any good analyses or to make any reasonable comparisons. Basically, access to timely evaluations of network reliability are impossible or severely limited unless the reports are scrubbed on a considerably faster basis.
- **No objective evaluation of the usefulness, effectiveness and timeliness of the process - This was required in the charter.** Many flaws in process were ignored and to this day not addressed. Although, the group seemed to be able to identify faults in the process, no details on how they should be addressed are given. Of greater importance, none of these flaws were addressed adequately by NRIC VI during the voluntary trial. In fact, NRIC VI adopted very close to the same processes that failed in NRIC V. In addition, NRIC did not perform even rudimentary analyses of the quality of the data that they collected. NRIC did not describe how often optional fields were filled out. NRIC did not describe how often mandatory fields were filled out. Of particular note, NRIC did not compare the quality of the voluntary information versus the quality of information in mandatory 63.100 reports.
- **No statement about the status of network reliability can be made based on the trial – This was part of the charter.** There is not one conclusion that NRIC VI draws about network reliability from the voluntary trial. There is not one statement in the report or in the presentation of the group that addresses the reliability of communication networks. For instance, there is no statement about the reliability of wireless networks or other networks covered by the Voluntary Trial.
- **No statement can be made about any individual industry segment.** Not only does NRIC make no statement about whether segments complied, NRIC makes no statement about the frequency, duration and effect of outages for individual industry segments. NRIC decided to scrub the information that would allow an analyst to make these statements.
- **No conclusions can be drawn from any of the graphs that were based on information from the scrubbed reports from the voluntary trial³.** There is no text around each graph describing why that graph was included. NRIC does not explain the graphs nor provide any conclusion based on the graphs. The SPC graphs are particularly hard to understand. NRIC does not describe what process

³ Several of the graphs show that some of the outages related to the Northeast power failure and Hurricane Isabella were quite long and affected many customers.

is being controlled. NRIC does not explain why it puts individual outages on an SPC graph. NRIC does not explain what Cpk is and why it is providing it to the reader. NRIC does not explain why it has negative control limits. NRIC did not explain why it presented different SPC graphs at the NRIC meeting from the ones in the text.

If future NRICs, and in particular the FCC, are to make meaningful evaluations on the reliability of the networks covered under the Voluntary Trial, the data collected will have to be dramatically improved. Even if the data problems are resolved, full and complete participation by all companies in the covered industries will be necessary. It is highly unlikely that such full and complete participation will occur as long as the reporting is voluntary.